OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS

CAPITOL STATION

STATE OF MONTANA

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Members of the Fifty-First Legislature

In accordance with the provisions of Section 53-20-104(8) and 53-210104(8), MCA, the Mental Disabilities Board of Visitors submits its annual report. In addition, the 1987 Montana Legislature asked the Board of Visitors to provide a report on the outpatient commitment bill (House Bill 316). Our findings are reviewed in Appendix A.

The Mental Disabilities Board of Visitors is charged by Montana law with reviewing patient care at Montana's community mental health centers and the institutions for the mentally ill and the developmentally disabled. In addition to the on-site reviews, the Board, during the last biennium, responded to over 1300 requests of patients and families to review care, treatment and rights related issues. [53-20-104(6) and 53-21-104(6) MCA].

This report to the Legislature highlights the major needs of the facilities reviewed by the Board of Visitors. Individual reports of each review and agency responses are available in the Governor's Office. The Board is hopeful these findings will provide an avenue to strengthen the delivery of treatment services to Montana mentally disabled citizens.

Respectfully submitted,

Allen V. Bertelsen

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Chairman

REPORT TO THE

FIFTY-FIRST MONTANA LEGISLATURE

January 1989

There is a widely shared perception among consumers, family members, advocates, providers, direct care staff, state administrators and program directors that mental health services and services for the developmentally disabled are operating under significant stress. These stressors include a growing demand for services, waiting lists for residential programs and outpatient services, limited funding sources, and increased regulation by federal and state entities.

In times of budget austerity we are challenged to maintain quality services and treatment programs. Many positive steps have been made in the variety of community-based and institutional services that are available, but there continues to be many unmet needs of Montana's mentally disabled. This overview attempts to highlight the programs, their accomplishments and needs.

OVERVIEW OF MONTANA'S INSTITUTIONS FOR PERSONS WITH A DISABILITY

Center for the Aged-Lewistown, Montana

Serving the needs of persons fifty-five years of age and older who have chronic mental disorders is the goal of the Center for the Aged. Many of the current 170 patients are transfers from Montana State Hospital, although the more recent admissions to the facility are referrals from the community mental health centers.

The federal requirements as identified in the federal Omnibus Reconciliation Act (OBRA) will require additional services and staffing for the Center for the Aged, the Long Term unit at the Warm Springs campus and the intermediate care units at the Galen campus. The changes include: 1)75 hours of training and competency evaluation for nurse and psychiatric aides; 2) one full-time social worker for any facility with more than 120 beds; 3) a medical director must be appointed; 4) establish a quality assurance committee and 5) annual review psychotropic medications.

Needs:

1. As a result of the new federal standards the Center must have a social worker and a medical director.

2. The lack of a qualified psychiatrist to assist in the care and treatment of the mental health needs of this elderly population remains a problem. Many of the patients need some adjustment in the psychotropic medication and/or the medication for medical problems.

Eastmont Human Services Center-Glendive, Montana

Eastmont Human Services Center provides care and treatment to fifty-five individuals who are developmentally disabled.Within the past two years significant renovations were made to one of the cottage areas in order to meet the fire and safety requirements of the Health Care Finance Administration.

Over the past several years, the facility has had difficulty recruiting several professionals positions (speech therapist, psychologist).

Needs:

1. Currently the duties of the Qualified Mental Retardation Professional (QMRP) are divided between the Director of Habilitation and the Director of Developmental Services. In order to meet the requirements of the Health Care Finance Administration, a full time QMRP is needed.

2. Staffing patterns and schedules need to be revised in order to meet the active treatment needs of the residents. The amount of down time during the early evening and during staff breaks in Cottage III is unacceptable.

Montana Developmental Center- Boulder, Montana

Formerly known as Boulder River School and Hospital, Montana Developmental Center serves the treatment needs of approximately two hundred (200) seriously developmentally disabled individuals.

During the past two years several deficiencies have been identified which seriously jeopardize the certification of the facility. Loss of certification by the Health Care Finance Administration translates to a loss of over six million dollars in general fund dollars.

Efforts to implement active treatment requirements have not been successful in all areas. At the time of the Board's review, the staff morale was at an all time low. Montana Developmental Center has been undergoing a series of reorganizations for the last several years. Many of those reorganizations have never been completed.

Needs:

1. The mission of the institution needs to be carefully reevaluated and defined. When the purpose of the facility is clearly defined, the staff must fully understand the mission, their responsibilities and performance standards.

2. Many of the residents would benefit from community placements. A systematic, cost effective plan for their discharge to more appropriate community settings must be developed.

3. Treatment and clinical leadership must become a high priority if Montana Developmental Center is to meet the active treatment standards. Active treatment standards must be met.

Montana State Hospital-Warm Springs and Galen campuses

Montana State Hospital consists of the Warm Springs and Galen campuses. The Warm Springs campus provides psychiatric care for adults with severe disabling mental illnesses. Medical care (acute and intermediate), along with chemical dependency services are provided at the Galen campus. Montana State Hospital is not licensed as a psychiatric facility, nor is it accredited by the Joint Commission on the Accreditation of Hospitals. The Long Term Unit on the Warm Springs campus and the intermediate care units at the Galen campus are licensed as intermediate care facilities.

In September of 1988 a new 104 bed Forensic Treatment Unit was opened. While the new unit is a physical improvement over the old one, problems still remain. These include a lack of adequate professional staff, inadequate treatment, mixing civil patients with criminal patients, extended periods of detention on the unit for the civilly committed patients, and the use of steel frame beds on the high security ward.

In May, 1988 a class action lawsuit regarding the state hospital was filed. The lawsuit alleges that patients' rights have been violated with regard to the use of restraint/seclusion and with regard to the conditions and practices of the Forensic Unit. The lawsuit was brought by twelve current and former hospital patients on behalf of all patients at the state hospital.

Needs:

1. If community services were available, at least forty patients could be served, at less cost in the community. The current recidivism rate at Montana State Hospital exceeds fifty per cent (50%). The Board supports the concept of providing a fiscal incentive to the community mental health centers in order to provide treatment within local communities.

2. In-service training and current up-to-date mental health information needs to be presented to the Warm Springs staff on a regular basis. In addition, all staff members must be adequately trained in the use of seclusion and restraint procedures.

3. Dually diagnosed patients at MSH include the chemically dependent and mentally retarded. The Board of Visitors urges the development of new programs to meet the needs of these young chronically mentally ill individuals. Full time chemical dependency counselors are needed at the Warm Springs campus.

4. Patient care and staff morale continues to suffer from a lack of psychiatrists and psychologists at the state hospital. Renewed efforts, and possibly added incentives, must be made to alleviate the shortage of professionals.

Community Mental Health Centers

Five regional community mental health centers, established as private, nonprofit organizations, exist in Montana. Satellite offices (30 full time, 14 part time), staffed by mental health professionals, serve the mental health needs of the multi-county regions. The five regions, by state law, are require to offer six basic services: inpatient, outpatient, emergency, precare and aftercare, part-time (partial) hospitalization and mental health consultation and education. Statewide there are currently fourteen transition living facilities (group homes), ten day treatment programs and two adolescent day treatment programs.

The Department of Institutions contracts with the mental health centers to purchase priority services as identified in the state mental health plan. The Department's contract comprises 46-53% of the centers' budgets. Additional revenue is generated from patient fees, county participation, and Medicaid/Medicare.

Needs:

1. The Board of Visitors supports increased funding for the community mental health centers. Services for mentally ill children and services for individuals with a severe disabling mental illness must remain a priority.

2. More community based living arrangements for persons with a serious mental illness are needed. (models include, but are not limited to consumer run alternatives, co-ops, group homes etc.)

3. Supported employment is a fairly new concept in the delivery system for persons with a mental illness. The Board of Visitors endorses increased funding of supported employment.

Labor performed by clients for the mental health centers also needs to be reimbursed according to the Department of Labor Wage and Hour standards.

4. Currently there are only fifteen intensive casemanagers serving the severely mentally disabled individuals in eight communities. We support an increase in the numbers of casemanagers in order to serve individuals in more communities.

5. Mental health education and prevention takes many forms. It includes early identification and intervention, education forums to community groups, etc. These services have remained low priorities for the Department of Institutions and subsequently the mental health centers. We urge these groups to continue to meet with consumers, advocacy groups and other social service agencies to develop strategies in order to address prevention issues.

6. Frequently persons with a mental illness are incarcerated in jails without receiving the proper mental health treatment. We urge the mental health centers to work with local law enforcement agencies to discontinue this practice and create more positive alternatives.

Rivendell facilities

As of January 1, 1987 the Montana Youth Treatment Center was sold to Rivendell. Rivendell of Billings provides acute inpatient psychiatric treatment to individuals under the age of eighteen. Under the purchase agreement, this facility must provide treatment services for up to forty court ordered adolescents. In addition the facility is subject to on-site reviews by the Board of Visitors.

Since Rivendell purchase the facility it has been extensively remodeled. The overall environment has been significantly improved by removing the concrete bedframes. In addition to the many new pieces of furniture, the corridors and day halls have been carpeted and painted.

In 1988 another Rivendell facility for children and adolescents was opened in Butte. The design of the building, patterned after other Rivendell facilities, provides a state of the art design and safety features. This inpatient treatment unit was established to serve the increasing mental health needs of Montana's youth.

Needs:

1. Creative alternatives, for those adolescents who need mental health treatment, (in-home support, respite care,therapeutic foster homes, day treatment services), needs to be developed for adolescents. There is also a need for more short term group home settings for those individuals discharged from inpatient psychiatric settings.

2.Resolution of medicare/medicaid issues regarding reimbursement.

3.Revisions are needed in the youth court act. The Board urges a careful balance between the needs of the facilities and the rights of patients.

APPENDIX A

MENTAL DISABILITIES BOARD OF VISITORS

REPORT TO 1989 LEGISLATURE

(TEMPORARY) INVOLUNTARY COMMUNITY (OUT-PATIENT) COMMITMENT

SECTIONS 53-21-101 ET. SEQ.

The 1987 Legislature requested the Mental Disabilities Board of Visitors to provide a report on the community commitment bill (also called out-patient commitment) which was enacted as a temporary statute (House Bill 316) during the 1985 session.

TEMPORARY COMMUNITY COMMITMENT STATUTE

The temporary statute allows for involuntary community commitment of a person who is found to be "mentally ill" as defined by §53-21-102(8)(temp)MCA. The law is an attempt to address concerns regarding persons in the community who have a mental disorder which had not resulted in the person being a danger to himself or herself, or to others, but who's actions fit other criteria pointing to a serious deterioration in the person's condition and their disorder posed a significant risk that might eventually lead to the person becoming seriously mentally ill thus requiring hospitalization. The law mandates treatment in the community for persons who meet the definition of "mentally ill". It did not replace, but is in addition to, the regular 90-day involuntary mental health commitment provided for in Chapter 53. (The 90-day commitment statutes permit a person who is found to be "seriously mentally ill" and a danger to himself or others to be committed to the state hospital, a community mental health facility, an outpatient day program or any other treatment arrangement the court deems necessary.)

Because a person under the 30-day temporary statutes is not a danger to himself or others, the statutes permit the mentally ill person to be committed to a community mental health facility or program for inpatient or out-patient treatment but do not permit commitment to Montana State Hospital. Also, because the person is not an imminent danger and since detention is not considered beneficial for a person who's condition is deteriorating, the statutes do not permit detention prior to a hearing. Generally,if detention is needed because the person is a danger, the appropriate petition is a 90-day involuntary petition. The statutes provide that a community placement may last up to 30 days and may be extended one time during the commitment if the person continues to be "mentally ill".

Appendix A
Outpatient Commitment

SURVEY

The Board of Visitors staff have followed the use of this statute by talking with various mental health professionals, county attorneys, public defenders and agencies who are involved with mental health commitment issues. In December 1988, we conducted a survey of all mental health centers and county attorney offices and spoke to public defenders of various counties to see how effective they thought the temporary statutes were. From the survey we learned that:

(1) 41% of those responding reported that the statutes were "ineffective" or "totally ineffective" for various reasons including:

* No funds available for community placement.
* No community facilities available in many rural counties.
* No resident judges, mental health professionals, doctors, etc., available in many rural counties.
* For the amount of time and effort involved, they thought it was more efficient and clinically appropriate to seek a 90-day involuntary commitment petition.
* Difficult criteria to meet and, if met, respondent is "usually bad enough to commit under a 90-day involuntary commitment".
* If a facility is actually available in the community, it is often unwilling to "assume the risk".
* There are no consequences to non-compliance.
* The process is "too laborious given the questionable benefit".

(2) 39% of those responding either had no comment as to the effectiveness of the statutes or had not used it-either because use was not appropriate or beneficial or no situation had arisen which called for its' use. Typical comments included:

* Never used. We have no facility for such community commitment.
* Considered but decided not appropriate alternative to commitment or ...the evidence did not support a finding of "mentally ill".
* Never had opportunity arise to use this.
* Not used but looks as good as regular commitment although both are difficult in rural Montana because only one judge for several counties. Proper facilities often are not available or affordable.

(3) 20% of those responding thought that is was effective or somewhat effective in preventing serious deterioration. Typical comments included:

* Effective if can be paid for privately. Useful if entire family cooperates.
* Effective but in small rural counties access to judge, mental health professionals and services, including mental health centers, is limited. We have no local mental health center.
* Definition is too restrictive - easier to prove "seriously mentally ill". Lots of hoops to jump through. May need detention.
* Have not used but want to keep law "as a back-up" for when person is decompensating. Looks workable.
* Good tool to attempt to prevent further deterioration. Need to become more familiar with it.

LEGISLATIVE ALTERNATIVES

The Board of Visitors sees two basic alternatives for this Legislature to consider regarding the temporary statutes.

Option 1 is to do nothing, in which case the temporary statute would sunset.

Option 2 is repeal the current sunset provision and either extend or delete any sunset provision.

We would note that a possible third alternative exists, revising the bill. However, if that revision involved a lessening of the standards, it would likely run afoul of constitutional standards which must be considered.

Recommendation:

Given the accumulated information on the temporary statutes, the Mental Disabilities Board of Visitors' recommendation would be to allow these statutes to sunset.

APPENDIX B

RIGHTS RELATED ISSUES AND GRIEVANCES

Rights related issues, grievances and requests for assistance by consumers, family members and staff are the best indicator of the workload of the Board of Visitors.

Rights related issues include questions regarding the commitment and re-commitment process, treatment issues, abuse and neglect, access to patient funds, billing procedures, medication and medical issues. Requests for assistance include providing information on such topics as guardianship (limited and full), power of attorney, and location and overview of various programs available instate, sterilization issues, social security, supported employment, housing alternatives etc.

Over the past five years, at the request of the First Judicial Court, the Board of Visitors has worked to resolve the Patient Account Law Suit. Assigned to locate nearly 200 current and past residents of the state hospital, was the first assignment of the Board. (All but three individuals were located.) In addition, the Board assisted individuals in recovering their personal needs money which had been placed in an escrow account.) Over one million dollars was reverted to the State general fund and patient monies have been returned.

The Court determined there was a conflict of interest with the Department of Institutions policies regarding patients' personal needs money. In 1987 the Board of Visitors, with the assistance of a grant under the Mental Health Protection and Advocacy law (Public Law 99-319), established a pilot payee project at the state hospital. The operation of the representative payee program does not conflict with the court decree nor the U.S. Social Security Administration.

Overview of Rights Related Complaints by Facility

Montana State Hospital	
Warm Springs campus	800
Galen campus	50
Montana Developmental Center	190
Center for the Aged	49
Eastmont Human Services Center	8
Community Mental Health Centers	56
Rivendell Treatment Centers	36
Citizen Advocate Office	57
Families	61
Other (legal,legislative, social services)	74
Total	1,381

APPENDIX C

FACILITIES REVIEWED

Mental Health Facilities

Montana State Hospital- Warm Springs and Galen campuses

Center for the Aged-Lewistown

Rivendell Treatment Center-Billings

Regional Mental Health Centers and their satellite offices

Region I	Miles City [full time clinical offices in six counties; part time services in four other counties]
Region II	Great Falls [eight full time clinical offices within the region]
Region III	Billings [five full time clinical offices; four counties are served part time]
Region IV	Helena [five full time clinical offices; part time services in five other counties]
Region V	Missoula [clinical services are available in six counties; one part-time office]

Facilities for the Developmental Disabled

Montana Developmental Center-Boulder

Eastmont Human Services Center-Glendive

Developmentally disabled population-Warm Springs and Galen campuses, Montana State Hospital

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Mary Gallagher, Attorney

*The Board of Visitors received $40,000 grant from the Montana Advocacy Program to fund an attorney position and .2FTE secretary.